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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,588	04/01/2004	Patrick W. McManus	14858-0006	1161
27268 7590 03/11/2009 BAKER & DANIELS LLP 300 NORTH MERIDIAN STREET SUITE 2700 INDIANAPOLIS, IN 46204			EXAMINER GORDON, STEPHEN T	
			ART UNIT 3612	PAPER NUMBER
			MAIL DATE 03/11/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* PATRICK W. MCMANUS  
and MARTIN P. MCMANUS

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Application No. 10/815,588  
Technology Center 3600

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Mailed: March 11, 2009

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Before KRISTA ZELE *Deputy Chief Appeals Administrator*  
ZELE, *Deputy Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on November 18, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

**APPEAL BRIEF, GROUNDS OF REJECTION**

A review of the file finds that the grounds of rejection of the claims as provided in the Appeal Brief filed July 16, 2007 under the heading “Grounds of rejection to be reviewed on appeal” is unclear and/or is not consistent with the grounds of rejection of claims of record. The grounds of rejection of the claims as provided in the Appeal Brief must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Each Grounds of rejection to be reviewed on appeal must be identified.

A review of the last Office action, including any mailed Advisory Action(s) finds that claims 3, 7, 8, 12-13, 20, 25 and 42-43 rejected under 35 U.S.C. § 102(b) as being unpatenable over Corey; claims 3 and 14 rejected under 35 U.S.C. § 102(b) as being unpatenable over St. Marie; claims 2 and 8 rejected under 35 U.S.C. § 102(b) as being unpatenable over Hodges; 3 and 12 rejected under 35 U.S.C. § 102(b) as being unpatenable over Fillios; 7 and 13 rejected under 35 U.S.C. § 102(b) as being unpatenable over Bradford; claim 20 rejected under 35 U.S.C. § 102(b) as being unpatenable over Anderson; claims 25, 36 and 44-46 rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as

being unpatenable over Fillios; claims 44-46 rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as being unpatenable over Anderson; and claim 49 rejected under 35 U.S.C. § 103(a) as being unpatenable over Anderson are not identified under the Grounds of Rejection to be reviewed in the Appeal Brief. Correction of the Grounds of rejection to be reviewed on appeal for all claims is required.

#### **EXAMINER'S ANSWER, EVIDENCE RELIED UPON**

In the Examiner's Answer mailed November 19, 2007 (See Amended Answer filed December 26, 2007) under "Evidence Relied Upon" the reference: Webster's Ninth New Collegiate Dictionary 1990 (referred to herein as "Dictionary") is listed but there does not appear to be a copy of the reference scanned into the file.

#### **CONCLUSION**

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) hold the Appeal Brief filed July 16, 2007 defective;
- 2) notify Appellant to file a paper properly addressing the Grounds of rejection of all claims;

3) acknowledge and consider any “paper” submitted by Appellant to correct the Appeal Brief;

4) provide a scanned copy in the file of the Dictionary reference; and

4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ/MV/SD

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